

***Superseded 5/13/2014***

**24-4-114 Transfer and sharing procedures.**

- (1)
  - (a) Seizing agencies or prosecuting attorneys authorized to bring forfeiture proceedings under this chapter may not directly or indirectly transfer property held for forfeiture and not already named in a criminal indictment to any federal agency or any governmental entity not created under and subject to state law unless:
    - (i) the conduct giving rise to the investigation or seizure is interstate in nature and sufficiently complex to justify the transfer;
    - (ii) the property may only be forfeited under federal law; or
    - (iii) pursuing forfeiture under state law would unreasonably burden prosecuting attorneys or state law enforcement agencies.
  - (b) In making a determination under this section, a court may conduct an in camera inspection of evidence provided by the prosecuting attorney or seizing agency.
- (2) All property, money, or other things of value received by an agency pursuant to federal law, which authorizes the sharing or transfer of all or a portion of forfeited property or the proceeds of the sale of forfeited property to an agency:
  - (a) shall be used in compliance with federal laws and regulations relating to equitable sharing;
  - (b) may be used for those law enforcement purposes specified in Subsection 24-4-117(9); and
  - (c) may not be used for those law enforcement purposes prohibited in Subsection 24-4-117(10).
- (3) A state or local law enforcement agency awarded any equitable share of property forfeited by the federal government may only use the award money after approval of the use by the agency's legislative body.
- (4) Each year, every agency awarded any equitable share of property forfeited by the federal government shall file with the commission:
  - (a) a copy of that agency's federal equitable sharing certification; and
  - (b) information, on a form provided by the commission, that details all awards received from the federal government during the preceding reporting period, including:
    - (i) the agency's case number or other identification;
    - (ii) the amount of the award;
    - (iii) the date of the award;
    - (iv) the identity of any federal agency involved in the forfeiture;
    - (v) how the awarded property has been used; and
    - (vi) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel confirming that the agency has only used the awarded property for crime reduction or law enforcement purposes authorized under Section 24-4-117, and only upon approval by the agency's legislative body.